



**Office of Cannabis
Management**

Cannabis Enforcement Initiatives

2023-24 Enacted Budget

October 25, 2023

OCM Past Enforcement Activities

OCM Enforcement Actions

- MRTA gives OCM enforcement power over licensed businesses.
- OCM works with local authorities to address issues related to unlicensed cannabis businesses.
- Efforts include identifying unlicensed operators, seizing illicit cannabis, fines, and store closures.



Overall New Enforcement Power

Overview

Revisions to the Cannabis Law and Tax Law were included in the SFY 23-24 Budget to establish a comprehensive framework to address the spread of unlicensed cannabis shops statewide. Specifically, the new laws:

- Empowers the OCM to take enforcement actions against businesses selling cannabis without the required license, including so-called "sticker shops" and other similar unlicensed businesses selling cannabis.
- Bolsters the enforcement authority of the OCM
 - Allow OCM to conduct regulatory inspections of all businesses selling and giving away cannabis.
 - Allow for the inspect these businesses by using a court order if the businesses do not allow OCM to conduct an inspection.
- Empowers OCM to seize cannabis found in unlicensed cannabis businesses.
- Empowers OCM to assess civil penalties (Tax and OCM fines and penalties) against unlicensed cannabis business.

Overview

- Establishes selling cannabis and cannabis products without a license is a class A misdemeanor.
- Empowers the Department of Tax and Finance to conduct regulatory inspections of businesses selling cannabis to determine if the appropriate taxes have been paid, and to issue fines and penalties when they have not.
- Establishes a new tax fraud crime for when a cannabis business willfully fails to collect or remit required cannabis taxes, or knowingly possesses for sale any cannabis on which tax was required to be paid but was not paid.

Closure of Illicit Stores

Closure of Illicit Stores

- OCM has the authority to revoke, cancel, or suspend any registration, license, or permit issued under Cannabis Law for a violation of the Cannabis Law.
- OCM has the authority to conduct regulatory inspections, during normal business hours, of any place of business, including a vehicle used for such business, where a business is engaging in activity for which a license would be required under the Cannabis Law.
Including:
 - medical cannabis
 - adult-use cannabis
 - cannabis product
 - cannabinoid hemp
 - hemp extract
- Or any products marketed or labeled as such, are cultivated, processed, stored, distributed, or sold by any person holding a registration, license, or permit under the Cannabis Law.

Closure of Illicit Stores

- Empowers OCM to seek court-ordered injunctions, closing orders, and the removal of commercial tenants to ensure unlicensed cannabis businesses cannot continue operating in violation of state law.
- This can incentivize landlords to make sure that their tenants are acting in compliance with the state law as well.
- If a commercial property owner allows an unlicensed cannabis retailer to operate on their property, OCM or the Attorney General can take legal action to require the landlord to remove the retailer.
- Additionally, if the owner fails to remove the retailer, the owner may face up to **three times the amount of rent** that was charged during the time of the violation. The property owner can also be held liable for the costs of the legal proceedings.

Financial Penalties

Financial Penalties

- Adds penalties for persons who:
 - Cultivates for sale or sells cannabis, cannabis products, or medical cannabis, or any product that is marketed or labeled without having an appropriate registration, license, or permit, or if such registration, license, or permit has been revoked, surrendered, or cancelled.
 - Violators would be subject to a penalty of not more than **\$10,000** each day during which the violation continues, and an additional civil penalty in an amount of no more than **five times the revenue from such prohibited sales**.

Financial Penalties

- Any person who knowingly possesses for sale and has received a notice and an opportunity for a hearing will face specific penalties.

More than five pounds but less than twelve pounds of illicit cannabis:

- May be liable for a civil penalty of up to **\$25,000** for a first violation and up to **\$50,000** for a second or subsequent violation within three years following a prior violation.

More twelve or more pounds of illicit cannabis or four or more pounds of illicit concentrated cannabis or illicit cannabis edible product:

- May be liable for a civil penalty of up to **\$75,000** for a first violation and up to **\$100,000** for a second or subsequent violation within three years following a prior violation.

- More than five pounds of illicit cannabis, or more than one pound of illicit concentrated cannabis or illicit cannabis edible product, in a commercial location:

- May be subject to an additional civil penalty of up to **\$50,000** for a first violation and up to one **\$100,000** for a second or subsequent violation.

Civil Penalties

Civil Penalties

- OCM has the authority to revoke, cancel, or suspend any registration, license, or permit issued under Cannabis Law for a violation of the Cannabis Law.
- Additionally, OCM will have the ability to revoke a sales tax Certificate of Authority for possession of adult-use cannabis by an unregistered business.
- NYS can revoke a registration for possession of illicit cannabis
 - For 1 year for the first possession
 - 3 years for a second possession and 5 years for a 3rd possession.
 - Provides for a streamlined appeal process for such revocations, modeled on the process for possession of untaxed cigarettes.

OCM Reporting

OCM Reporting

- Beginning January 1, 2024, and annually thereafter, OCM will be required to submit a report to the Legislature.
- Additionally, OCM will post the report on our website.
- This report will include the enforcement actions OCM and DTF have taken.

Dispensary Verification Tool

- Licensed Dispensaries will display this sign
- QR Code links to a list of [NYS Licensed Dispensaries](#)
- Medical Dispensaries have a similar tool



Enforcement

Information about activities that may be in violation of the Cannabis Law can be sent to OCM via email or through our web site.

Suspected violations or complaints can be reported at:

complaints@ocm.ny.gov

OR

<https://cannabis.ny.gov/report-an-incident>

Whenever possible please include the following information when submitting a complaint:

- Name of business
- Time of alleged illicit activity
- Location of alleged illicit activity
- Pictures of alleged illicit activity
- Indicate if there has been previous police contact (i.e., 911 calls)
- Proximity to sensitive use locations (e.g., school, house of worship)
- Contact information of the person reporting the alleged illicit activity
(for any follow up questions investigators may have)